

## **EXHIBIT THREE**

1  
2 UNITED STATES DISTRICT COURT  
3 DISTRICT OF MASSACHUSETTS  
4 C.A. NO: 04-10256MEL VOLUME I

5 \*\*\*\*\*  
6 LISA RICCOBENE,

7 Plaintiff

8 vs.

9 MASSACHUSETTS BAY TRANSPORTATION  
10 AUTHORITY, and ANNE McCALL,  
11 Defendants

12 \*\*\*\*\*

13 DEPOSITION of MICHAEL H.

14 MULHERN, a witness called on behalf of  
15 the Plaintiff, pursuant to the  
16 Massachusetts Rules of Civil Procedure,  
17 before Lisa E. Berkland, a Certified  
18 Shorthand Reporter and Notary Public in  
19 and for the Commonwealth of  
20 Massachusetts, held at Wilmer Cutler  
21 Pickering Hale & Dorr, 60 State Street,  
22 Boston, Massachusetts, on Friday, April  
23 13, 2007, commencing at 2:10 p.m.

24 LISA E. BERKLAND, CSR  
P.O. Box 286  
Westwood, MA 02090  
(508) 850-5171

EXHIBIT 3

1 final list of individuals to be laid off?

2 A. Yes. The employees couldn't be -- the  
3 only person authorized to lay off anybody  
4 at the T at the time was myself.

5 Q. But did you actually -- I understand you  
6 gave final approval, but did you actually  
7 make any of the decisions as to which  
8 people or individuals should be placed on  
9 that list?

10 A. Yes.

11 Q. You did?

12 A. Yes.

13 Q. What role did you play in doing that?

14 A. I made every department participate in  
15 the reduction-of-force exercise. That  
16 included my own direct reports.

17 Q. Okay.

18 A. So I actually identified one person to be  
19 included on the list. That was the limit  
20 of my involvement.

21 Q. Okay. But as to identifying other  
22 individuals on the list from departments  
23 other than your own, did you have any  
24 involvement in deciding who would be on

1 the list?

2 A. No, none at all.

3 Q. Okay. Who is it, sir, to your  
4 understanding, -- well, strike that.

5 Do you recall how many  
6 individuals were laid off from the police  
7 department as a result of that 2002  
8 reduction in force?

9 A. Based on my preparation for this lawsuit,  
10 I learned that it was one.

11 Q. Ms. Riccobene?

12 A. Ms. Riccobene, yes.

13 Q. Again, although I understand you were the  
14 one who gave final approval to her  
15 layoff, you were not the one who selected  
16 her position for elimination or reduction  
17 of force, correct?

18 A. No.

19 Q. Who is it who made that decision?

20 A. It would have been the department head,  
21 which at the time I think was -- it  
22 should have been Acting Chief Flemming,  
23 because it was in November of '01, and he  
24 was actually the acting chief.

1 Q. In terms of Joan Martin's role in the  
2 process, did she make the decision on  
3 what positions or people should be on the  
4 list?

5 A. No.

6 Q. So in terms of who it was to make the  
7 decision to subject Lisa Riccobene to  
8 layoff, that would have been Chief  
9 Flemming, correct?

10 A. Yes. It should have been. Again, I  
11 don't have direct knowledge, but it  
12 should have been.

13 Q. Do you have any reason to believe that  
14 someone else made that decision?

15 A. No.

16 Q. Okay. Again, you approved Ms.  
17 Riccobene's selection for the list based  
18 upon your belief that Chief Flemming had  
19 selected her, correct?

20 A. I approved the list in its entirety, and  
21 that included Lisa Riccobene. I didn't  
22 make any changes or additions or  
23 subtractions, for that matter.

24 Q. When you signed the list, you assumed